

STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

<input type="checkbox"/> Affirm and adopt (no changes)	<input type="checkbox"/> Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/> Affirm with changes	<input type="checkbox"/> Rate Adjustment Fund (§8(g))
<input type="checkbox"/> Reverse	<input type="checkbox"/> Second Injury Fund (§8(e)18)
<input type="checkbox"/> Modify down	<input type="checkbox"/> PTD/Fatal denied
	<input checked="" type="checkbox"/> None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

FERDINAZE HAJRULLAHU,

Petitioner,

vs.

NO: 03 WC 34786

CDW,

Respondent.

ORDER

This matter came before the Commissioner Charles DeVriendt pursuant to Respondent's "Motion to Correct a Clerical Error Pursuant to Section 19(f)" filed November 5, 2018;

And the Respondent, having advised the Commission of the clerical error regarding the proper permanent partial disability rate based on an average weekly wage rate of \$456.90;

The Commission is of the opinion that the Commission's Decision and Opinion on Review dated October 22, 2018 should be recalled due to a clerical error.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Commission's Decision and Opinion on Review dated October 22, 2018, is hereby recalled and a Corrected Decision and Opinion on Review is issued simultaneously. The parties should return their original Decision to Commissioner Charles J. DeVriendt.

NOV 14 2018

DATED:
CJD/dmm
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Charles J. DeVriendt

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STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

<input type="checkbox"/> Affirm and adopt (no changes)	<input type="checkbox"/> Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/> Affirm with changes	<input type="checkbox"/> Rate Adjustment Fund (§8(g))
<input type="checkbox"/> Reverse	<input type="checkbox"/> Second Injury Fund (§8(e)18)
<input checked="" type="checkbox"/> Modify <input type="text" value="down"/>	<input checked="" type="checkbox"/> PTD/Fatal denied
	<input type="checkbox"/> None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

FERDINAZE HAJRULLAHU,
Petitioner,

vs.

NO: 03 WC 34786
18 IWCC 0621

CDW,
Respondent.

CORRECTED DECISION AND OPINION ON REVIEW

Timely Petitions for Review having been filed by the Respondent and Petitioner herein and notice provided to all parties, the Commission after considering the issues of causation, temporary total disability benefits, temporary partial disability benefits, permanent disability benefits, medical expenses, and penalties and fees, and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

Temporary Partial Disability Benefits

The Commission vacates the award for temporary partial disability benefits. The Illinois Workers' Compensation Act did not allow for such benefits until it was amended by P.A. 94-277 which reflects the amendatory changes apply to accidents occurring on or after February 1, 2006. As Petitioner's work accident occurred on May 28, 2003, she was not eligible for temporary partial disability benefits.

Permanent Disability Benefits

The Commission vacates the award of permanent total disability benefits pursuant to Section 8(f) of the Act and finds Petitioner is entitled to an award of 60% loss of use of the person as a whole pursuant to Section 8(d)2 of the Act.

Both Petitioner and Respondent retained vocational experts, Mr. Edward J. Rascati and Ms. Sharon Babat, respectively. Each provided testimony via evidence deposition. The Commission affords greater weight to the opinions offered by Ms. Sharon Babat, Respondent's vocational expert.

On March 30, 2016, Mr. Rascati testified he is a certified rehabilitation counselor. PX7,

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p. 5. Mr. Rascati testified he met with Petitioner on May 19, 2015 and conducted an interview regarding Petitioner's prior educational and vocational history. Mr. Rascati noted Petitioner immigrated to the United States in 1999 and speaks Albanian. PX7, p. 8. Upon arrival in the United States, Petitioner attended three months of ESL classes (English as a second language), but he had no knowledge of any education beyond her high school diploma received in Albania. *Id.* Regarding Petitioner's vocational background, Mr. Rascati understood Petitioner to be a bookkeeper in Albania and upon her arrival in the United States, she obtained employment through Respondent as a picker-packer. PX7, p. 9. Based upon this information, in part, Mr. Rascati determined no stable labor market existed. PX7, p.10. Mr. Rascati testified Petitioner possessed limited transferable skills, and even if placement services were considered, Petitioner would require significant assistance. PX7, p.11.

On cross-examination, Mr. Rascati testified he was unaware of Petitioner's two-year post-high school education. PX7, p. 28. Mr. Rascati did not utilize any independent testing regarding Petitioner's computer skills nor relative to her math and language capabilities. PX7, p. 30. Mr. Rascati acknowledged individual employers might consider a high school diploma from another country. PX7, p. 34.

On July 7, 2016, Ms. Babat testified she is a certified rehabilitation counselor. RX5, p.6. Ms. Babat testified she met with Petitioner on May 21, 2015 and conducted an interview regarding Petitioner's prior educational and vocational history. Ms. Babat testified she was able to communicate with Petitioner in English. RX5, p. 8. Ms. Babat noted Petitioner's basic computer skills in that Petitioner was able to use e-mail, Facebook, and Skype. RX5, p. 12-13. Petitioner also reported she is able to read and write in English, but her primary language is Albanian. RX5, p. 13. Ms. Babat testified Petitioner completed high school in Albania with a three-month course to improve her English skills upon arrival in the United States. RX5, p. 14. In reviewing certain records, Ms. Babat indicated Petitioner obtained two years of post-high school/college education. *Id.* Ms. Babat testified Petitioner reported her vocational history to include her job with Respondent as well as a bookkeeper in Albania from 1984 to 1999. Based on this information, in part, Ms. Babat opined a stable labor market existed and identified some available positions. RX5, p. 20. Ms. Babat testified a labor market survey was subsequently conducted which provided a sampling of possible jobs. RX5, p. 26-27.

On cross-examination, Ms. Babat testified no job placement services were provided to Petitioner. RX5, p. 31. Ms. Babat testified she did not provide the labor market survey to Petitioner. RX5, p. 32. Ms. Babat explained the labor market survey identified 12 jobs which were available and for which Petitioner qualified. RX5, p. 33.

As previously stated, the Commission affords greater weight to the opinions of Ms. Babat over those of Mr. Rascati. Ms. Babat possessed a better understanding of Petitioner's prior educational history as well as vocational history in making her determination that Petitioner has transferable skills affording her access to a stable labor market. Certainly, Petitioner testified she contacted the 12 employers identified in the labor market survey without success, but in contacting the employers, Petitioner testified her attempts only consisted of making phone calls. T. 89-90. She never requested any assistance from her own vocational counselor. *Id.* Further, Ms. Babat testified the labor market survey was not exhaustive but merely representative, and

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Petitioner could anticipate obtaining employment at her pre-injury wage rate. RX5, p. 27.

The Commission finds Petitioner's injury precluded her from returning to her usual and customary occupation, but such injury does not result in an impairment of her earning capacity. As such, the Commission awards 60% loss of use of the person as a whole pursuant to Section 8(d)2 of the Act.

Penalties and Fees

The Commission affirms the arbitrator's denial of penalties pursuant to Sections 19(l) and (k) and fees pursuant to Section 16 of the Act. "The employer has the burden of justifying the delay, and the employer's justification for the delay is sufficient only if a reasonable person in the employer's position would have believed that the delay was justified." *Jacobo v. Illinois Workers' Compensation Commission*, 2011 IL App (3d) 100807WC, ¶ 19.

Petitioner underwent an extensive course of medical treatment for both her lumbar and cervical spine, the particulars of which are fully outlined in the Arbitrator's decision. Germane to the present issue, on January 13, 2004 on the referral of Dr. Vidovic, Petitioner was evaluated by Dr. Gleason who reviewed an MRI which demonstrated degenerative disc disease. Dr. Gleason recommended conservative care including over-the-counter medication and a home exercise program as well as a referral to a pain center. PX13. Thereafter on April 14, 2004 again on the referral of Dr. Vidovic, Petitioner was evaluated by Dr. Lazar who concurred with the recommendation of continued conservative treatment including physical therapy but disagreed with the recommendation of injections for pain management. On April 28, 2006, Dr. Lazar re-evaluated Petitioner and found a normal neurological examination and felt Petitioner's problems stemmed from arthritis. PX14.

On May 9, 2007, Dr. Triester evaluated Petitioner at the request of her attorney. Dr. Triester found Petitioner exhibited multiple Waddell findings and diagnosed a lumbar strain which morphed into "chronic pain syndrome." Dr. Triester stated "She has psychiatric/psychological aberrations in that she perceives numerous pain producing problems, yet there is simply no rational objective medical explanation for the severity of her many complaints. Unfortunately, in patients who develop such a 'chronic pain syndrome' the administration of injections (such as epidural steroids) and the use numerous medications serves to further re-enforce the pain syndrome rather than alleviate it." PX18. On November 3, 2008, Petitioner was evaluated by Dr. Goldberg at the request of Respondent. Dr. Goldberg diagnosed degenerative disc disease with lumbar radiculitis caused by Petitioner's injury and recommended an FCE. RX2.

The Respondent acted reasonably and provided an adequate justification for its delay in payment of compensation when it relied on the medical opinions of Drs. Gleason, Lazar and Triester. Certainly, Dr. Goldberg, Respondent's examining expert physician found Petitioner's accident aggravated her underlying degenerative condition which lead to the need for treatment, but Dr. Triester, Petitioner's examining expert physician found the contrary and recommended no additional medical treatment beyond psychological/psychiatric treatment which Petitioner declined to pursue. An expert physician employed by either Petitioner or Respondent is not their agent. *Taylor v. Kohli*, 162 Ill. 2d 91, 642 N.E.2d 467 (1994). Binding a party to its examining

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physician's opinion is simply not supported by the law. *Kraft General Foods v. Industrial Commission*, 287 Ill. App. 3d 526, 678 N.E.2d 1250 (1997). Therefore, despite Dr. Goldberg's opinion, Respondent was reasonably justified in relying on the differing opinions offered by Drs. Gleason, Lazar, and Triester in its delay of payment of compensation. As the Commission finds Respondent's delay in payment was reasonable, it follows Section 19(l) and (k) penalties and Section 16 attorneys' fees are not applicable.

The Commission, therefore, affirms and adopts the Arbitrator regarding causation, temporary total disability, medical expenses, and the denial of penalties and fees, but modifies the Arbitrator's award of odd-lot permanent total disability to a 60% loss of person as a whole. The Commission further vacates the award of temporary partial disability.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$310.60 per week for a period of 492 2/7 weeks (May 29, 2003 through July 20, 2003; October 7, 2003 through November 2, 2003; December 19, 2003 through January 9, 2005; August 23, 2005 through September 22, 2005; February 21, 2006 through May 14, 2006; July 17, 2006 through July 31, 2006; September 25, 2006 through October 22, 2006; and November 6, 2006 through June 23, 2014), that being the period of temporary total incapacity for work under §8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$274.14 per week for a period of 300 weeks, as provided in §8(d)2 of the Act, for the reason that the injuries sustained caused the 60% loss of person as a whole

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$91,478.05 for medical expenses under §8(a) of the Act, subject to the fee schedule in §8.2 of the Act.


IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of \$75,000.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

DATED: NOV 14 2018

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Charles U. DeVriendt


Joshua D. Luskin


E. Elizabeth Coppoletti

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ILLINOIS WORKERS' COMPENSATION COMMISSION
NOTICE OF ARBITRATOR DECISION

HAJRULLAHU, FERDINAZE

Employee/Petitioner

Case# 03WC034786

04WC039980

CDW

Employer/Respondent

18IWCC0621

On 2/27/2017, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.67% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

4788 HETHERINGTON KARPEL BOBBER
PETER C BOBBER
120 N LASALLE ST SUITE 2810
CHICAGO, IL 60601

2542 BRYCE DOWNEY & LENKOV LLC
EDWARD JORDAN
200 N LASALLE ST SUITE 2700
CHICAGO, IL 60601

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<input type="checkbox"/>	Injured Workers' Benefit Fund (§4(d))
<input checked="" type="checkbox"/>	Rate Adjustment Fund (§8(g))
<input type="checkbox"/>	Second Injury Fund (§8(e)18)
<input type="checkbox"/>	None of the above

**ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION**

Ferdinaze Hajrullahu

Employee/Petitioner

Case # 03 WC 34788

v.

Consolidated cases: 04WC39980, et al**CDW**

Employer/Respondent

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Gregory Dollison**, Arbitrator of the Commission, in the city of **Chicago, Illinois** on **12/13/2016** and **12/22/2016**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

- A. Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
- B. Was there an employee-employer relationship?
- C. Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
- D. What was the date of the accident?
- E. Was timely notice of the accident given to Respondent?
- F. Is Petitioner's current condition of ill-being causally related to the injury?
- G. What were Petitioner's earnings?
- H. What was Petitioner's age at the time of the accident?
- I. What was Petitioner's marital status at the time of the accident?
- J. Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
- K. What temporary benefits are in dispute?
 TPD Maintenance TTD
- L. What is the nature and extent of the injury?
- M. Should penalties or fees be imposed upon Respondent?
- N. Is Respondent due any credit?
- O. Other **Vocational Rehabilitation and Two-Doctor Rule**

FINDINGS

18IWCC0621

On **05/28/2003**, Respondent *was* operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship *did* exist between Petitioner and Respondent.

On this date, Petitioner *did* sustain an accident that arose out of and in the course of employment.

Timely notice of this accident *was* given to Respondent.

Petitioner's current condition of ill-being *is* causally related to the accident.

In the year preceding the injury, Petitioner earned **\$24,226.80**; the average weekly wage was **\$465.90**.

On the date of accident, Petitioner was **41** years of age, *married* with **2** dependent children.

Petitioner *has* received all reasonable and necessary medical services.

Respondent *has not* paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of **\$4,561.38** for TTD, **\$664.60** for TPD, **\$0.00** for maintenance, and **\$0.00** for other benefits, for a total credit of **\$5,226.07**.

Respondent is entitled to a credit of **\$8,182.51** under Section 8(j) of the Act. Respondent shall hold petitioner harmless from any claims by any providers of the services for which Respondent is receiving this credit, as provided in Section 8(j) of the Act.

ORDER

Respondent shall pay Petitioner temporary total disability benefits of **\$310.60/week** for **492-2/7ths** weeks, for periods indicated in the attached Addendum, as provided in Section 8(b) of the Act.

Respondent shall pay Petitioner permanent and total disability benefits of **\$376.66/week** for life, commencing **June 12, 2014**, as provided in Section 8(f) of the Act.

Respondent shall pay Petitioner temporary partial disability benefits of **\$155.30/week** for **64-1/7ths** weeks, for periods indicated in the attached Addendum, as provided in Section 8(a) of the Act.

Respondent shall pay reasonable and necessary medical services of **\$91,478.05**, as provided in Sections 8(a) and 8.2 of the Act.

Commencing on the second July 15th after the entry of this award, Petitioner may become eligible for cost-of-living adjustments, paid by the *Rate Adjustment Fund*, as provided in Section 8(g) of the Act.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.



Signature of Arbitrator

2/24/17
Date

FINDINGS OF FACT:

18IWCC0621

Petitioner was born on March 14, 1962 and was 41 years old on May 28, 2003. She was born in Kosovo and came to the United State in 1999 as a war refugee. She has been married for 34 years and obtained her U.S. citizenship in 2005.

Petitioner testified that she did not obtain any education in the United States and the highest level of education she completed in Kosovo was high school. After high school, she attended some college classes focusing on preschool education. She did not obtain a certificate or degree as a result of those classes. Petitioner provided that her native language is Albanian. She is able to speak and understand some English although her reading and writing English skills are weak.

Petitioner testified that prior to working for Respondent, she worked in Kosovo as a payroll clerk which involved keeping track of employee's hours and wages. Petitioner stated that she did not utilize a computer to perform this work and instead performed same manually. She held this clerical job from 1981 through 1999.

Petitioner testified that she commenced employment with Respondent on December 6, 1999. She found the job with the assistance of a humanitarian organization that helped bring her and her children to the Chicago area. This organization also assisted with paying her rent, utilities and providing her family food. With regard to the job at CDW, the organization drove Petitioner and others in a van to Respondent's facility where she was hired. She also received assistance filling out the application for the job.

Respondent is a company which provides computers and accessories to its customers. Petitioner provided that she worked as a picker/packer which required her to pick various parts of an order from the warehouse; scan them; pack them into boxes; and then move the completed boxes/orders to a conveyor. She indicated that her job would require lifting up to 70 pounds with individual parts weighting 10-25 pounds. She also had to lift and maneuver empty wooden pallets that weighed "at least 50 pounds."

Petitioner sustained an undisputed accident on May 28, 2003. Petitioner testified that she was performing her regular work when she injured her low back attempting to pull a component from a warehouse shelf. Petitioner stated that she had climbed the shelf framing to reach a part deep on a shelf when she noted sudden pain in her low back while lifting the part and attempting to descend the shelving to the floor.

Petitioner first sought medical treatment for her injuries the following day, May 29, 2003. Then, she saw Dr. Vidovic, her primary care physician at Ravenswood Medical Professional Group. Dr. Vidovic noted Petitioner complained of severe low back pain that started at work when she was lifting heavy packages. Upon examination, Dr. Vidovic noted Petitioner was in significant distress due to back pain which radiated into her left lower extremity. Dr. Vidovic took Petitioner off work and treated the condition conservatively with medication. (Pet. Ex. 8)

On June 5, 2003, Petitioner returned to the Ravenswood Medical Professional Group where she saw Dr. Powell. Petitioner complained of low back pain with radiation down the left leg. Dr. Powell diagnosed sciatica, prescribed medication, and referred Petitioner to Dr. Abraham of the same medical group. (Pet. Ex. 8)

On June 6, 2003, Petitioner completed a Safety Incident Report. The incident report states that Petitioner experienced back pain after lifting heavy boxes "...up and down the different levels of the picking module." (Resp. Ex. 12)

Dr. Abraham first saw Petitioner on June 17, 2003 at which time he noted a consistent history of accident. Petitioner reported shooting pain from the low back radiating down the left leg. Upon examination, Dr. Abraham recorded positive straight leg raising regarding the left leg. X-rays of the lumbar spine showed no gross pathology. Petitioner was diagnosed with lumbar disc disease and left sciatica. The doctor also ordered a lumbar MRI (Pet. Ex. 8) which when completed on June 18, 2003, showed some facet arthropathy at L5-S1, without disc herniation, central spinal or neuroforaminal stenosis. (Pet. Ex. 8)

Petitioner returned to Dr. Abraham on July 8, 2003. Dr. Abraham noted Petitioner had a set-back with continual with left leg pain. Petitioner also reported that the pain would awaken her at night. Dr. Abraham assessed low back pain acute herniation; L4-L5, L5-S1 disc degeneration. The doctor felt Petitioner could return to work on July 21, 2003 and her pain medications were continued. (Pet. Ex. 8)

Petitioner saw Dr. Vidovic on July 15, 2003 and wanted to return to work. Dr. Vidovic released Petitioner to return to work with restrictions. (Pet. Ex. 8) Petitioner returned to light duty work on July 21, 2003.

Following her return to work, Petitioner returned to Drs. Vidovic and Abraham on August 26, 2003. Petitioner reported that her back pain was unbearable. She also reported that working an eight hour shift exacerbated the pain which started in her low back and radiated into the left leg. Dr. Abraham noted that Petitioner would sleep on the floor due to the pain. Dr. Abraham limited Petitioner to avoid lifting over 25 pounds. The doctor also recommended lumbar epidural steroid injections. (Pet. Ex. 8)

Consistent with Dr. Abraham's referral, Petitioner presented to Dr. Rifai of the Pain Management Center at Advocate – IMMC on September 16, 2003. Dr. Rifai noted a consistent history of the May 28, 2003 work injury. Objectively, he noted positive straight leg raising on the left at 30 degrees as well as decreased strength in the left leg. Dr. Rifai diagnosed lumbar radiculopathy and recommended a series of lumbar epidural steroid injections the first of which he administered that day. (P. Ex. 10, p.1).

Petitioner testified that on September 26, 2003, she was filling a "big order" at work when she noticed her back hurting. Petitioner stated that she spoke to her supervisor, Rudy, and requested permission to go home. She indicated that her request was denied and she continued working. Petitioner stated that her pain continued to increase and she requested an ambulance to take her to the emergency room. Petitioner stated, "...the pain was becoming worse...I couldn't stay any longer. I couldn't handle it any longer."

Petitioner was transported to Condell Medical Center. Records submitted show that her chief complaint was back pain that started at work four months ago on May 28, 2003 while lifting. Also noted was that the recent injury occurred while lifting at work. The "reason for the visit" further show she "complained of back X four months receiving cortisone injections." Petitioner was discharged with a diagnosis of chronic low back pain and instructed to follow up with her physician. (Pet. Ex. 11)

Petitioner followed up with Dr. Vidovic on September 29, 2003. Dr. Vidovic noted Petitioner had been doing well since the September 16 injection until her back pain returned on September 26th when she worked a 13 hour shift. Dr. Vidovic returned Petitioner to modified work effective September 30, 2003 with no more than 8 hours of work per day. (Pet. Ex. 8)

Dr. Vidovic took Petitioner off work on October 7, 2003, (P. Ex. 8) She underwent a second lumbar ESI with Dr. Rifai on October 10, 2003. (Pet. Ex. 10) Thereafter, Dr. Vidovic returned Petitioner to part-time work, four hours a day, effective November 3, 2003 for four weeks. (Pet. Ex. 8) Petitioner testified that she returned to part-time work on November 4, 2003.

Petitioner returned to Dr. Vidovic on December 2, 2003. Petitioner reported that she was doing better on Celebrex. The doctor noted that Petitioner wanted to return to an eight hour shift. (Pet. Ex. 8)

Petitioner testified that on December 18, 2003, she was working packing boxes and getting boxes onto a conveyor belt when she experienced further low back pain and as well as neck pain. Petitioner stated that she informed a supervisor named "Scott" of her back and neck pain. She completed work and returned to Dr. Vidovic the following day.

On December 19, 2003, Dr. Vidovic recorded that Petitioner presented with worsening back pain with neck pain for a week. Dr. Vidovic ordered a cervical MRI; referred Petitioner to Dr. Gleason; and took Petitioner off work. (Pet. Ex. 8)

Petitioner underwent the prescribed cervical MRI on December 20, 2003. The study revealed disc bulging, with protrusions and disc degeneration at C3 through C7. (Pet. Ex. 12)

Petitioner presented to Dr. Gleason on December 23, 2003 with complaints of low back pain as well as tingling and numbness into the left first and second toes. Dr. Gleason noted that her symptoms had been present since May 2003, when she felt pain after removing a 40 pound box from a shelf. Dr. Gleason also noted Petitioner had cervical and left arm complaints which she originally stated "...started 1 month ago and then tried to say it was part of a work injury." In addition to performing an examination, Dr. Gleason reviewed the June 2003 lumbar MRI which he felt demonstrated degenerative disc disease L3-4-5 greater than L5-S1 as well as facet arthropathy at L5-S1. Dr. Gleason diagnosed left lumbar radicular syndrome. He recommended a MRI of the pelvis, an EMG/NCV study and physical therapy. (Pet. Ex. 13)

Petitioner underwent the prescribed EMG/NCV on December 29, 2003. Same was determined to be a normal study. Specifically, it was noted there was insufficient evidence for a left S1 radiculopathy and there was no electrical evidence for a peripheral neuropathy. (Pet. Ex. 9)

Petitioner commenced physical therapy at Swedish Covenant Hospital January 8, 2004 and continued through January 16, 2004. (Pet. Ex. 9)

Petitioner returned to Dr. Gleason on January 13, 2004 at which time he recommended continued use of medications, a home exercise program and a chronic pain management program. (Pet. Ex. 13)

Based on Dr. Vidovic's referral on February 17, 2004, (Pet. Ex. 8) Petitioner returned to Dr. Rifai on February 23, 2004. Dr. Rifai noted Petitioner complained of cervical neck pain with numbness in the left 3rd and 5th digit. Petitioner also reported that the previous two injections provided no relief. Dr. Rifai assessed cervical disc disease and lumbar and cervical radiculopathy. Dr. Rifai ordered Flexeril and administered a cervical epidural injection. (Pet. Ex. 10)

Pursuant to a neurosurgical consult referral by Dr. Vidovic, Petitioner was seen by Dr. Sheldon Lazar on April 14, 2004. The doctor recorded Petitioner complained of continual low back and left leg radicular pain after injuring herself at work the year prior while reaching for an object. She also reported that earlier in 2004, while working, she developed pain in her neck and upper extremities. Dr. Lazar opined that Petitioner did not have a surgical problem in her neck or lumbar spine. He recommended conservative management with physical therapy and exercise. The doctor also recommended against any further injections in either her cervical or lumbar region. Instead, he felt Petitioner should be treated with non-steroidal, anti-inflammatory drugs and mild analgesics. (Pet. Ex. 14) Thereafter, Petitioner underwent further physical therapy from April 27, 2004 through May 21, 2004. (Pet. Ex. 9)

At Petitioner's attorney's request, she underwent a Section 12 examination with Dr. Charles Slack on September 2, 2004. Dr. Slack recorded a history that Petitioner developed low back and bilateral leg pain while trying to lift a heavy box from a high upper shelf on May 28, 2003. He noted that Petitioner returned to work on July 21, 2003 and continued to work until September 26, 2003 when she developed increased low back, neck and arm pain. Dr. Slack noted that Petitioner continued working, but had been off work since December 18, 2003 when she had increasing low back and neck pain. Dr. Slack diagnosed Petitioner with persistent lumbar radiculopathy on the left with an apparent aggravation of underlying degenerative disk disease. Dr. Slack indicated that because of the exacerbation of back and leg symptoms after the September 26, 2003 incident at work, Petitioner should undergo a new lumbar MRI to determine if there had been a progression of the degenerative disc disease. He stated that if no significant changes were noted, then Petitioner would be a candidate for pain management care. Lastly, Dr. Slack opined that Petitioner was disabled from work at that time. (Pet. Ex. 15)

Dr. Vidovic returned Petitioner to work effective January 13, 2005 with limitations including no lifting over 20 pounds, no shift greater than 8 hours and two fifteen minute breaks during a shift for rest. On February 8, 2005, Dr. Vidovic noted Petitioner had significant back pain with the eight hour shift. The doctor limited Petitioner's work to 4 hours per shift and referred her to Dr. Schuette for possible further injections. (Pet. Ex. 8)

Petitioner presented to Dr. Schuette on February 14, 2005. After an examination and reviewing the previous diagnostic studies, Dr. Schuette assessed Petitioner with chronic low back pain, now accompanied by diffuse pain syndrome. The doctor recommending that she take Neurontin and Dolobid and hold off on further injections. (Pet. Ex. 16) During the March 9, 2005 follow-up visit, Dr. Schuette proceeded with a lumbar epidural steroid injection. On March 23, 2005, Dr. Schuette noted improvement with the radiating pain following the initial injection. He administered a second injection and noted that Petitioner's neck pain was predominantly the result of muscular spasm and strain. He noted same was likely referred pain from the back. (Pet. Ex. 16)

Petitioner returned to Dr. Schuette on May 4, 2005. Petitioner reported that her back pain had gotten worse. The pain radiated into the left leg and she had a return of numbness and tingling. Dr. Schuette stated that clearly Petitioner had recurrent problems with her back. Dr. Schuette administered a third injection that day and recommended further therapy as well as strengthening and exercise. (Pet. Ex. 16)

Records submitted show Dr. Schuette kept Petitioner off work from March 9, 2005 through March 10, 2005; March 23, 2005 through March 24, 2005; and May 4, 2005 through May 8, 2005. (Pet. Ex. 16)

Petitioner testified that on August 22, 2005 she was packing and scanning boxes when she experienced increased back pain while at work. Petitioner stated that she did not report the August 22nd occurrence to anyone at Respondent nor did she fill out any documentation regarding an August 22, 2005 accident.

Petitioner returned to Dr. Vidovic on August 23, 2005. Petitioner reported increased pain again in the low back after reinjuring the back at work the previous day. Dr. Vidovic ordered 6 therapy sessions (Pet. Ex. 8) which Petitioner underwent at Swedish Covenant Hospital. (Pet. Ex. 9) Dr. Vidovic returned Petitioner to 4 hour per day work effective on September 26, 2005. On October 26, 2005, Dr. Vidovic took Petitioner off work completely until October 31, 2005. (Pet. Ex. 8)

Petitioner testified that she returned to restricted work for Respondent. Petitioner testified that she continued working her 4 hour shifts performing scanning of small parts, approximately 4000 per shift. Petitioner indicated that in December 2005 she began experiencing pain in her left hand. Petitioner stated that advised a supervisor but she couldn't remember who she spoke to.

Petitioner presented to Dr. Vidovic on December 5, 2005 with pain in her left wrist, thumb and index finger. Dr. Vidovic noted that Petitioner had been at work scanning four hours daily with her left hand. Dr. Vidovic assessed carpal tunnel syndrome, recommended a wrist brace and released Petitioner to work 4 hours per day in a sitting position. (Pet. Ex. 8)

Petitioner continued treating with Dr. Vidovic for persistent low back pain into 2006. Dr. Vidovic ordered more physical therapy, (Pet. Ex. 8) which Petitioner underwent from March 14, 2006 through March 27, 2006. (Pet. Ex. 9) Dr. Vidovic kept Petitioner off work effective February 21, 2006. (Pet. Ex. 8)

Consistent with Dr. Vidovic referral, Petitioner returned to Dr. Lazar on March 17, 2006. Dr. Lazar recorded that two weeks prior, she developed severe pain in her back and could barely move. Dr. Lazar indicated Petitioner probably had a large disc protrusion or spinal stenosis causing nerve root compression on the left primarily involving the L5 nerve root. The doctor ordered a repeat lumbar MRI and prescribed medication (Pet. Ex. 14)

Petitioner underwent the MRI on March 24, 2006. The scan revealed slight to moderate bulging from L3-4 and L4-5. There was minimal bulging from L2-L3 and L5-S1 as well as degenerative changes from L3-4, L4-5 and L5-S1. (Pet. Ex. 12)

Dr. Lazar saw Petitioner again on April 28, 2006. Dr. Lazar noted the recent MRI revealed diffuse, mild degenerative changes without any significant nerve root or cauda equina compression at any level. He recorded that the left sciatica was gone and her neurological examination was completely within normal limits. Dr. Lazar indicated that Petitioner had problems throughout her skeleton and her problems were primarily arthritis which could be helped after a thorough evaluation. Dr. Lazar felt a referral to a rheumatologist would be helpful. (Pet. Ex. 14)

Dr. Vidovic returned Petitioner to 4 hour shifts as of May 14, 2006. (Pet. Ex. 8)

Petitioner testified that she was involved in a non-worked related motor vehicle collision on July 11, 2006. Petitioner presented to the emergency room at Condell Medical Center with complaints of neck, back and hip pain. Hospital records show she was primarily treated for neck and hip pains. She was discharged that day with a diagnosis of acute multiple contusions. (Resp. No.2 Ex. 2)

Petitioner saw Dr. Wu in Dr. Vidovic's absence the following day. Dr. Wu noted Petitioner was complaining of nausea, dizziness, vomiting and neck pain. A head CT scan was ordered. No lumbar pain was noted. (Pet. Ex. 8) Petitioner presented to Dr. Vidovic on July 19, 2006. The doctor diagnosed her with cervical strain post motor vehicle accident. She also took Petitioner off work from July 17, 2006 through July 31, 2006. (Pet. Ex. 8) Petitioner testified that her cervical and lumbar conditions did not change as a result of the car accident.

On September 25, 2006, Petitioner returned to Dr. Vidovic. Records show she complained of "pain all over." The doctor also noted that her left hand was swollen and red. Petitioner was taken off work at that time. Petitioner remained off until Dr. Vidovic released her to return to work as of October 9, 2006. (Pet. Ex. 8)

At her attorney's request, Petitioner underwent a Section 12 examination with Dr. Daniel Nagle, on October 31, 2006, for complaints of left hand pain. Although the doctor could not provide a definite diagnosis, Dr. Nagle believed Petitioner suffered from double crush syndrome. He believed the compression of the proximal nerve roots had rendered the distal extension of those nerve roots more susceptible to compression and the effects of repetitive activities. Dr. Nagle also noted that Petitioner presented with irritation of median and

ulnar nerves in the left upper extremity. She also had findings suggestive of cervical radiculopathy. He recommended an EMG/NCV study. (Pet. Ex. 17)

On November 8, 2006, Dr. Vidovic took Petitioner off work until further notice and ordered a cervical MRI. (Pet. Ex. 8)

Respondent placed Petitioner on an approved leave of absence commencing November 6, 2006. (Pet. Ex. 28).

Petitioner underwent the prescribed cervical MRI on November 10, 2006. The study revealed multilevel disc and facet degeneration with areas of stenosis and spinal cord deformity. (Pet. Ex. 12)

Dr. Vidovic referred Petitioner to Dr. Simikin for evaluation and a cervical EMG/NCV. Dr. Simikin administered the testing on January 17, 2007 and his findings revealed "no clear electrodiagnostic evidence of cervical radiculopathy or peripheral neuropathy. (Pet. Ex. 8)

At her attorney's request, Petitioner underwent a Section 12 examination with Dr. Michael Triester on April 26, 2007. In his report dated May 9, 2007, Dr. Triester noted that Petitioner sustained a low back injury resulting in lower back and left lower extremity pain on May 28, 2003 and had been diagnosed with a lumbar spine strain in the presence of degenerative disc disease at L4-L5 and L5-S1 and developed cervical spine pain in late 2003. Dr. Triester also noted that in July 2006 Petitioner was in a motor vehicle accident that caused some neck pain. Dr. Triester noted that none of Petitioner's MRIs or EMGs documented any disc herniation or rational basis for Petitioner's radicular complaints. Upon examination, Dr. Triester found many Waddell findings. He opined that Petitioner's lumbar strain morphed into chronic pain syndrome. He indicated she had psychiatric/psychological aberrations in that she perceives numerous pain producing problems, yet there were no rational objective medical explanation for the severity of her many complaints. Dr. Triester stated that while she may indeed experience pain, the extent of her complaints far exceed what the pathology might reasonably be expected to generate. He added that any more injections, medications, or physical therapy would only reinforce her perception of disease and disability. Lastly, the doctor indicated that Petitioner was severely disabled from the current medical problem, "chronic pain syndrome," and that even with excellent psychological and psychiatric care, it could take many years to put her on the road to recovery. (Pet. Ex. 18)

Petitioner continued to follow with Dr. Vidovic through 2007. Petitioner last saw the doctor on November 7, 2007 at which time she returned Petitioner to four hour shifts from November 12, 2007 until further notice. (Pet. Ex. 8)

Respondent terminated Petitioner's employment effective November 6, 2007. (Pet. Ex. 28) Petitioner testified that with the termination of her employment, she lost her health insurance coverage and was unable to obtain medical care. Petitioner also indicated that she received no workers' compensation benefits following said termination.

At Respondent's request, Petitioner underwent a Section 12 examination with Dr. Edward Goldberg on November 3, 2008. Dr. Goldberg opined Petitioner had some degenerative disk disease of the cervical spine. The doctor explained that because Petitioner's cervical complaints did not occur until December 2003, same was not related to work. With respect to Petitioner's lumbar condition, the doctor opined Petitioner had some degenerative disk disease with lumbar radiculopathy. He felt that her lumbar condition of ill-being was related to the May 28, 2003 work accident. He also noted that because Petitioner did not offer another injury of December 2003, September 2003, August 2005 or December 2005, he did not believe any of Petitioner's conditions of ill-being was related to those accident dates. Further, he opined that there was no additional injury caused by the July 11, 2006 motor vehicle accident. Dr. Goldberg opined that Petitioner had chronic behavior.

He did not believe she was a surgical candidate nor would he offer any further injections. The doctor added that the only additional treatment would be due to the May 28, 2003 accident. Lastly, he indicated Petitioner could work 8 hours per day lifting no more than 20 pounds. (Pet. Ex. 19)

Petitioner testified that in 2009 she obtained health insurance through her husband's group carrier, Union Health Service. Dr. Jovanovich became her primary care provider under that insurance plan. Dr. Jovanovich first examined Petitioner on March 17, 2009. Dr. Jovanovich noted a consistent history of the 2003 work accident. The doctor's impressions amongst other diagnoses were neck, shoulder and back pain. (Pet. Ex. 20)

By June 23, 2009, Petitioner continued with neck and back pain complaints. Dr. Jovanovich referred Petitioner to Dr. Edward Abraham for orthopedic care to the spine. (Pet. Ex. 20) Dr. Abraham examined Petitioner on August 6, 2009 at which time he diagnosed low back pain/syndrome and ordered a lumbar MRI and EMG of the upper extremities. Dr. Abraham next saw her on September 10, 2009 noting that the EMG was unremarkable but the lumbar MRI showed spondylosis bilaterally at L5, bulging at L3-4 and L4-5 with stenosis at L4-5 and bilateral degenerative facets at L4-5 and L5-S1. Dr. Abraham noted that although Petitioner's findings were consistent with age, it did not seem to explain the entire picture she presented with. He diagnosed Petitioner with chronic low back and neck pain syndrome. (Pet. Ex. 20)

Petitioner continued following with Dr. Jovanovich thereafter. According to Dr. Jovanovich's records dated June 14, 2010, Petitioner's husband call his office and reported that Petitioner's pain was getting worse and radiating into the left lower leg. Dr. Jovanovich referred her for another MRI and for a neurosurgical consult. (Pet. Ex. 20)

Dr. Slavin first saw Petitioner on October 4, 2010. Dr. Slavin reviewed a lumbar MRI indicating same demonstrated partial lumbarized S1 vertebral bone and severe degeneration at L4-L5 and L5-S1 with disk protrusion and bilateral foraminal stenosis, worse on the left. Dr. Slavin felt Petitioner did not require surgery at that time. He indicated that she may eventually require surgery to the low back, but in the interim, injections and nerve blocks might be the most appropriate modalities. (Pet. Ex. 21) Petitioner refused further injections indicating they were not successful in the past. (Pet. Ex. 20)

On March 28, 2011, Dr. Slavin referred Petitioner to his partner, Dr. Neckrysh, who specializes in complex spine surgery. (Pet. Ex. 21) Dr. Neckrysh first examined Petitioner on April 15, 2011. At that time, Dr. Neckrysh noted a history of the onset of spinal pain as a result of a work lifting incident at work 8 years prior. Petitioner complained of low back pain radiating into the left leg and less severe neck pain radiating bilaterally. Dr. Neckrysh reviewed Petitioner's March 2011 lumbar and cervical MRIs. The doctor noted the lumbar MRI showed diffuse degenerative disc disease with mild spinal stenosis at L3-4 and L4-5 along with mild retrolisthesis at L3 and L4. He opined that the cervical MRI showed right sided osteophyte pressing on C5 nerve root and C5, C6 level osteophyte complex on the left. He recommended Petitioner undergo a C3-5 cervical arthroplasty, discectomy and removal of osteophytes at C5-6 along with anterior cervical fusion at C5-6. (Pet. Ex. 21)

Petitioner was admitted to UIC Hospital on May 19, 2011 with an eight year history of neck and back pain with sudden onset after lifting heavy objects at work with a gradual increase of left hand weakness and dropping objects thereafter. Dr. Neckrysh performed an anterior cervical discectomy at C4-5 and C5-6 along with cervical fusion at C5-C6. Post-operatively, Petitioner was diagnosed with C4-5 and C5-6 herniated disc with cervical radiculopathy. (Pet. Ex. 21)

Respondent had a second Section 12 examination with Dr. Edward Goldberg on June 24, 2011. Dr. Goldberg again opined that the care to the cervical spine was not related to the work accident since the cervical symptoms "did not appear until multiple months after the alleged accident of 2003." With respect to the lumbar

spine, the doctor opined that although there was some pain behavior, there was no symptom magnification. The doctor felt she should undergo a FCE once her cervical fusion healed. In the meantime, from the lumbar perspective, she could work with a 20 pound lifting restriction. (Pet. Ex. 19)

Petitioner continued treating with Dr. Neckrysh post-operatively. On September 23, 2011, Petitioner reported that her radicular symptoms into her arms had significantly improved. The doctor felt she was developing a solid fusion at C5-C6. Regarding her low back, Petitioner reported continual complaints of radiating low back pain. Dr. Neckrysh ordered updated MRI, CT and EMG of the low back/lower extremities. (Pet. Ex. 21)

Petitioner underwent the lumbar EMG on November 7, 2011. The EMG revealed minimal evidence of S1 radiculopathy. (Pet. Ex. 21) On December 9, 2011, Dr. Neckrysh recorded that Petitioner underwent the prescribed diagnostics. The doctor provided that the x-ray and MRI showed degenerative changes in the lumbar spine with disc protrusions at L5-S1. The CT scan revealed mild foraminal stenosis at L5-S1 bilaterally, left greater than right. Dr. Neckrysh recommended AC joint injections and selective nerve root blocks. (Pet. Ex. 21)

Dr. Bartis performed lumbar epidural steroid injections on January 12, 2012, February 6, 2012, and March 8, 2012. (Pet. Ex. 21)

On July 24, 2012, Petitioner presented to Dr. Neckrysh reporting a significant amount of back pain. Dr. Neckrysh noted that Petitioner's back corresponded with very arthritic facets at L4-L5 and L5-S1. He also noted she had left S1 radiculopathy. The doctor felt all non-operative options had been exhausted. As a result, he recommended Petitioner undergo an L5 laminectomy with nerve root decompression. (Pet. Ex. 21)

On August 15, 2012, Dr. Neckrysh performed a lumbar fusion of L4 through S1 with utilization of an iliac crest autograft and laminectomies at L4 and L5. The postoperative diagnosis was lumbar spondylotic radiculopathy. (Pet. Ex. 21) Postoperatively, Dr. Jovanovich ordered physical therapy which took place at Accelerated Rehabilitation from September 28, 2012 through November 8, 2012. (Pet. Ex. 22). By December 4, 2012, Petitioner presented to Dr. Neckrysh complaining of some pain and numbness in the left side S1 distribution. The doctor opined that Petitioner should have 12 months of recovery to establish a solid fusion. The doctor also felt Petitioner was not able to work as a machine operator in a factory and could not lift weights in the 70lb. range. (Pet. Ex. 21)

At the one year follow up visit on September 10, 2013, Dr. Neckrysh noted that Petitioner's left leg radicular symptoms improved by 50%. On November 28, 2013, the doctor opined that Petitioner could return to work with a permanent 10 pound weight lifting limit. (Pet. Ex. 21)

Dr. Goldberg, Respondent's Section 12 examiner, performed a third examination on May 9, 2014. Dr. Goldberg opined that Petitioner's lumbar spondylosis and left leg radicular pain was aggravated by the May 28, 2003 work accident. He opined that the lumbar and cervical treatment including surgical interventions was reasonable and necessary, although the cervical treatment was not work related. Dr. Goldberg opined that Petitioner could return to work with a 10 pound lifting restriction and recommended an FCE to determine her true capabilities and return work. He opined that Petitioner's work restrictions were due to the fusion necessitated by the May 28, 2003 work accident. Lastly, Dr. Goldberg opined Petitioner would be at MMI after she underwent an FCE of the lumbar spine. He noted the MMI did not apply to the cervical spine as it was his opinion same was not work related. (Pet. Ex. 19)

Petitioner underwent the FCE on June 23, 2014. The FCE was deemed valid showing Petitioner demonstrated functional capabilities at the sedentary to light physical demand level. Petitioner demonstrated physical capabilities of lifting 21.4 lbs desk to chair level, 14.8 lbs above shoulders bilaterally, and lifting and

carrying 17 lbs in each hand. The FCE noted Petitioner was capable of working 8 hours per day with 8 hours of sitting, 3-4 hours of standing, and 6-7 hours of walking. Also noted was that she was able to perform occasional bending, stooping, kneeling, crawling, crouching and squatting. (Pet. Ex. 23) Petitioner testified that following the evaluation, she had to lay down for approximately two days due to the increased neck and back pain caused by the evaluation.

At Petitioner's attorney's request, she underwent a vocational evaluation with Certified Vocational Rehabilitation Counselor Edward Rascati on March 19, 2015. In his report dated March 24, 2015, CRC Rascati noted that Petitioner's strengths were her long and consistent work history. Her vocational barriers consisted of singular work history; non-English speaking; no HS or GED; physical restrictions of maximum 10# lifting; minimal computer skills; and limited transferrable skills. CRC Rascati opined that based upon Petitioner's restrictions, limited transferrable skills, limited education, language barrier and minimal computer skills, no stable labor market exists for Petitioner. CRC Rascati added that "job placement would likely be a long drawn out affair with minimal chance at reemployment." He further added that "...if placement were to be considered [Petitioner] would benefit from immediate enrollment into English as a Second Language (ESL) courses." He further indicated Petitioner would need assistance with the identification of introductory computer and keyboarding classes. (Pet. Ex. 2)

Respondent obtained the services of CompAlliance for the purpose of performing a vocational assessment, transferable skills assessment and a labor market survey. The initial assessment conducted by CRC expert Sharon Babat occurred on May 21, 2015. In her report dated June 15, 2015, CRC Babat opined that a stable labor market existed for Petitioner. She indicated the "positive factors to successful outcome/assets" included, 1.) Petitioner completed high school and reported basic computer skills; 2.) Petitioner was bilingual in English and Albanian; 3.) Petitioner had been released to Sedentary to Light physical demand level; and 4.) Petitioner had access to an automobile. With respect to the "barriers and problem identification," CRC Babat indicated "[Petitioner's] reported physical limitations are more restrictive than what was demonstrated in the ATI Physical Therapy evaluation." CRC Babat felt Petitioner was employable in alternative occupations such as front desk clerk, customer service clerk, cashier and receptionist among others. (Resp1. Ex. 6)

CRC Babat also conducted a labor market survey. In her report dated July 7, 2015, CRC Babat identified twelve employers which she opined Petitioner would be able to qualify and secure employment. The positions identified included front desk clerk, desk office clerk, entry-level billing clerk, customer service clerk, sales clerk, call center clerk, cashier, receptionist and work order dispatcher. CRC Babat opined Petitioner could obtain and maintain employment in her local community. (Resp1. Ex 7)

On December 30, 2015, CRC Rascati authored an Updated Vocational Evaluation. CRC Rascati noted that he reviewed the vocational evaluation and labor market survey prepared by CRC Babat. CRC Rascati noted that although CRC Babat reported that Petitioner had been released to a Sedentary to Light physical demand level, he had not received any medical reports releasing Petitioner to that level of functioning. He noted that of the fourteen (14) alternative jobs noted by CRC Babat, only four (4) were classified as sedentary. Nine positions were classified as light and one position classified as medium. CRC Rascati opined all were beyond the recommendations of both Dr. Neckrysh and Dr. Goldberg. CRC Rascati specifically identified five (5) of the positions which he felt were beyond Petitioner's restrictions. Additionally, CRC Rascati noted that ten (10) of the twelve (12) positions required a high school or GED. CRC Rascati was unclear as whether Petitioner's education in Albania and/or her work history would be considered in lieu of a high school diploma or GED. Also, CRC Rascati noted that he was advised that with the help of Petitioner's daughter, Petitioner contacted the identified employers without any call backs. In conclusion, CRC Rascati provided that his opinion remained unchanged indicating that a viable and stable labor market did not exist for Petitioner. (Pet. Ex. 3)

Petitioner continued to treat with Dr. Neckrysh through 2016. On March 15, 2016, Dr. Neckrysh noted that one of the surgical rods below S1 appeared broken. Thereafter, on April 12, 2016, Dr. Neckrysh opined Petitioner's present pain complaints in the lumbar spine were caused by early degeneration above the fusion for which he indicated Petitioner should follow up as symptoms increase. (Pet. Ex. 21)

Petitioner testified that she had never suffered an injury prior to her May 28, 2003 work accident. She indicated that she had never suffered an injury to; required medical treatment for; or missed work for any problem with her neck, left hand or low back. Petitioner indicated that although she has not worked anywhere since she last worked at Respondent, on November 6, 2006, she would like to work. Petitioner indicated that she has never created a resume and had no experience looking for a job. She provided that since her 2007 termination of her employment with Respondent, no one has assisted her regarding how or where to find a job. Petitioner stated that she contacted all employers listed in the labor market survey. She obtained no job offers as a result and she has not performed any other job searching. Petitioner's Exhibit 27 is a copy of notes Petitioner and her daughter kept in connection with the contacts they made with said potential employers.

Petitioner testified that presently, she suffers from constant neck and low back pain which radiates to her left foot. She indicated that the pain prevents her from sitting more than 25 minutes at a time. Petitioner indicated that she no longer sleeps with her husband because the pain wakes her often as she does not sleep more than 2 hours at a time. Petitioner also has difficulty brushing her teeth, getting dressed, using the toilet and showering due to low back pain. Petitioner stated she requires assistance from family members with laundry as she has difficulty lifting a heavy laundry basket due to her low back problems. She also requires assistance with cooking as she has difficulty standing more than 20 minutes. She requires assistance with grocery shopping due to difficulty with lifting heavy items and standing in line too long. Lastly, Petitioner testified that she takes Vicodin and Ibuprofen on a daily basis to address her back pain.

CRC Edward Rascati testified via deposition in this matter. CRC Rascati testified that in his opinion there is no current viable and stable labor market for Petitioner. In forming his opinions, CRC Rascati indicated that he relied on her work history, Petitioner's current level of physical functioning at the sedentary level, her transferable skills noting that the majority of positions would require computer experience or interaction which Petitioner didn't have much experience. He noted that she Skypes but she doesn't really keyboard and she doesn't have any real experience with any software programs. He indicated that if placement were to be considered, Petitioner would require a lot of assistance. In addition to the above opinions, CRC Rascati provided that Petitioner's age and language skills were barriers. He indicated Petitioner would benefit from a course of English as a second language. (Pet. Ex. 7)

CRC Rascati testified that he was not provided information that Petitioner received a two-year post high school education in Kosovo. CRC Rascati testified that while Petitioner had some transferable skills including repetitive work, comparing data, taking instructions and handling objects, many of the jobs listed in the labor market survey require computer involvement and the use of the English language. He added that job placement would be a long drawn out affair with minimal chance of employment. (Pet. Ex. 7)

CRC Sharon Babat testified via deposition in this matter. CRC Babat testified that Petitioner had basic computer skills demonstrated by the fact that she used email, skype and facebook. CRC Babat testified that after reviewing a set of pre-employment application records, it was noted that Petitioner attended college for two years while in Kosovo. CRC Babat indicated that these attributes are beneficial in a job search along with the fact that she had been continuously employed since 1984. From 1984 to 1999, she worked as a bookkeeper in Kosovo. Then from 1999 through the date of accident, Petitioner worked for CDW as a pick-pack. (Resp. Ex. 5)

CRC Babat testified that she identified 12 jobs in a labor market survey and identified positions that indicate that Petitioner is employable. She stated that these jobs ranged from starting salary of \$9.50 to \$33.50 per hour and would be within Petitioner's work restrictions. CRC Babat estimated that average salary for these jobs would \$15.00 per hour. CRC Babat testified that she does not agree with Petitioner's vocational expert, CRC Ed Rascatti, that no stable labor market exists for Petitioner indicating that she had a stable work history, she is bilingual, attended two years of college and has basic computer skills. Lastly, CRC Babat acknowledged she did not provide Petitioner any job placement services, but such services could benefit Petitioner. (Resp. Ex. 5)

Respondent presented Rudy Gonzalo, one of its shipping supervisors, who testified that Petitioner did not notify him of any work accident occurring on September 26, 2003. Further, Respondent presented Jennifer Vega, on if its Human Resources representatives who testified that Petitioner only filled out and submitted a Safety Incident Report or accident report regarding her May 28, 2003 accident, (See. Resp1 Ex. 12)

In support of the Arbitrator's decision relating to (F) IS THE PETITIONER'S CONDITION OF ILL-BEING CAUSALLY RELATED TO THE INJURY, the Arbitrator finds the following:

Petitioner testified un rebutted that prior to her May 28, 2003 work accident, she never suffered injury to her low back; missed work due to her low back; or underwent any medical treatment to her low back. There is no evidence in the record of any pre-existing injury.

Following her May 28, 2003 undisputed work accident, Petitioner first obtained medical care the following day from Dr. Vidovic, her primary care physician. Dr. Vidovic noted a consistent history of injuring her back at work the day prior and she noted tenderness and spasm in her lumbar spine. Petitioner then underwent a prolonged course of treatment to her low back as detailed above in the statement of fact culminating in the August 15, 2012 lumbar fusion Dr. Neckrysh performed.

Every doctor that treated or examined Petitioner's back offered a consistent history of tracing Petitioner's low back problems to her undisputed May 28, 2003 work accident. These include the following specific references in the record:

- a. Dr. Vidovic (P. Ex. 8, p.1);
- b. Dr. Powell (P. Ex. 8, p. 2);
- c. Dr. Abraham (P. Ex. 8, pp. 3, 5);
- d. Dr. Rifai (P. Ex. 10, pp. 1, 3);
- e. Condell Medical Center Emergency Room (P. Ex. 11, pp. 3, 5);
- f. Dr. Gleason (P. Ex. 13, p. 1);
- g. Dr. Slack (P. Ex. 15, p. 1);
- h. Dr. Schuette (P. Ex. 16, p. 1);
- i. Dr. Lazar (P. Ex. 14, p. 1);
- j. Dr. Treister (P. Ex. 18, p. 1);
- k. Dr. Goldberg (P. Ex. 19, pp. 2, 7, 9, 10, 15, 17);
- l. Dr. Jovanovich (P. Ex. 20, pp. 1);
- m. Dr. Neckrysh (P. Ex. 21, pp. 8, 17, 24; 32, 58, 83); and
- n. Accelerated Rehabilitation (P. Ex. 22, p. 1).

The record is void of any evidence attributing Petitioner's low back pain with radiating pain into the left leg to any cause other than the May 28, 2003 work accident.

Specifically, the Arbitrator finds Respondent's Section 12 examining physician, Dr. Edward Goldberg of Midwest Orthopaedics at Rush especially persuasive in this matter. In his November 3, 2008 report, Dr. Goldberg opined that Petitioner's lumbar degenerative disc disease and radiculitis was caused by the May 28, 2003 work accident. He went on to note that since Petitioner offered him no history of any other work accidents, (like September or December of 2003 or August or December of 2005), that no condition of ill-being originates from any such claimed accidents. Dr. Goldberg went on to note that there was no additional injury caused by Petitioner's intervening July 11, 2006 motor vehicle accident.

Additionally, Dr. Goldberg opined in his June 24, 2011 report that Petitioner did not injure her cervical spine in the May 28, 2003 work accident. He went on to note again that "[h]er lumbar condition is due to the work-related accident of 5/28/2003," but "[h]er cervical condition is not related to that accident."

Lastly, in his May 9, 2014 report, Dr. Goldberg stated that Petitioner suffered lumbar spondylosis and left leg radicular pain which was aggravated by the May 28, 2003 work accident, and the resulting lumbar fusion surgery, which was reasonable and necessary, was related to that accident.

Relying on the consistency between Petitioner's testimony regarding the lack of any prior injury or treatment, the extensive consistent medical treatment records and Dr. Goldberg's persuasive opinions, the Arbitrator finds that a causal relationship exists between Petitioner's present condition of ill-being involving her low back and left leg and the undisputed work accident of May 28, 2003. Petitioner suffered injury to her lumbar spine involving an aggravation of degenerative changes in her lumbar spine which necessitated the extensive course of medical treatment indicated in the record, including, but not limited to, the lumbar fusion Dr. Neckrysh performed on August 15, 2012.

In support of the Arbitrator's decision relating to (J) WERE THE MEDICAL SERVICES PROVIDED TO PETITIONER REASONABLE AND NECESSARY AND HAS RESPONDENT PAID ALL APPROPRIATE CHARGES FOR ALL REASONABLE AND NECESSARY MEDICAL SERVICES, the Arbitrator finds the following:

The Arbitrator notes that Dr. Goldberg, Respondent's examining doctor, opined that the treatment Petitioner underwent to the lumbar spine including the fusion surgery was appropriate, reasonable and necessary. There is no evidence in the record disputing or challenging the reasonableness or necessity of the medical care Petitioner obtained to her lumbar spine. Therefore, the Arbitrator, being persuaded by said opinion finds that the medical services rendered to Petitioner were reasonable and necessary.

Addressing the medical charges for said services, medical bills contained in Petitioner's Exhibit 24 and Petitioner's Exhibit 25 were entered into evidence at arbitration. These exhibits contain bills and itemized reimbursement claims from group insurance carriers who processed bills on Petitioner's behalf. The Arbitrator notes that given the findings regarding causal connection and reasonableness and necessity above, Respondent is liable for all bills related to the medical services Petitioner received for her lumbar spine condition only. Specifically, Respondent is liable to pay for the following bills (outstanding or paid by Petitioner) contained in Petitioner's Exhibit 24 to the extent indicated unless such bills are subject to reductions pursuant to the Medical Fee Schedule:

A. M. Ramez Salem & Assoc. (P. Ex. 24, pp. 2-3)	\$15.00
B. North Suburban Neurosurgery (P. Ex. 24, p. 4)	\$135.00
C. Condell Medical Center (P. Ex. 24, p. 5)	\$141.60
D. Swedish Covenant Hospital (P. Ex. 24, p. 6)	\$94.25
E. University of Illinois Anesthesiology (P. Ex. 24, p. 8)	\$3,135.00
F. University of Illinois Hospital (P. Ex. 24, pp. 10-16)	\$64,213.03

G. University of Illinois Hospital (P. Ex. 24, p. 17)	\$224.00
H. University of Illinois Hospital (P. Ex. 24, p. 18)	\$167.00
I. University of Illinois Hospital (P. Ex. 24, p. 19)	\$89.00
J. ATI (P. Ex. 24, p. 47)	\$2,762.28
K. Walgreens (P. Ex. 24, pp. 52-58)	\$110.42
TOTAL:	\$71,086.58

The parties stipulated that Respondent is entitled to a credit pursuant to Section 8(j) for amounts paid by Blue Cross Blue Shield, Petitioner's group health carrier provided through Respondent, totaling \$8,182.51. (Pet. Ex. 24, Arb. Ex. 1)

Lastly, Respondent is liable for lumbar-related bills paid by Union Health Service, Petitioner's health insurance carrier not provided by Respondent totaling \$20,391.47 (Pet. Ex. 24), representing the \$26,491.67 total paid less the \$6,099.20 in bills paid for the unrelated cervical care/surgery. (See Pet. Ex. 24)

Based on the above, the Arbitrator orders Respondent to pay \$91,478.05 for reasonable and necessary medical services, representing amounts paid by Petitioner out of pocket, amounts paid by Union Health service, and amounts remaining outstanding ($\$71,086.58 + \$20,391.47 = \$91,478.05$).

In support of the Arbitrator's decision relating to (K) WHAT ARE PERIODS OF TEMPORARY TOTAL DISABILITY, TEMPORARY PARTIAL DISABILITY AND MAINTENANCE, the Arbitrator finds the following:

Petitioner testified, with no evidence offered in rebuttal, that she always followed her doctors' orders regarding being off work or working only four hour shifts. Respondent stipulated that Petitioner was off work from May 29, 2003 through July 20, 2003. (See Arb. Ex. 1) Dr. Vidovic then kept Petitioner off work from October 7, 2003 through November 2, 2003. (Pet. Ex. 8) On November 3, 2003, Dr. Vidovic returned Petitioner to working only 4 hour shifts through December 6, 2003 and Respondent stipulated to this period. (Pet. Ex. 8, See Arb. Ex. 1)

Next, Dr. Vidovic kept Petitioner off work from December 19, 2003 through January 9, 2005. (Pet. Ex. 8, Resp2. Ex. 5) Petitioner then was restricted to four hours of work per day from February 8, 2005 through May 15, 2005, after which she went abroad to visit her ill mother who had suffered a stroke. (Pet. Ex. 8, Resp2. Ex. 4) Petitioner then returned to working four hour shifts from August 8, 2005 through August 22, 2005. (Resp2. Ex. 4)

Thereafter, Dr. Vidovic took Petitioner off work from August 23, 2005 through September 22, 2005 (Resp2. Ex. 4) after which Petitioner returned to four hour shifts from September 23, 2005 through February 20, 2006. Then, Dr. Vidovic took Petitioner off work from February 21, 2006 through May 14, 2006 and again returned Petitioner to four hour shifts from May 15, 2006 through July 16, 2006. (Resp2. Ex. 4, Pet. Ex. 8)

Dr. Vidovic took Petitioner back off work from July 17, 2006 through July 31, 2006 and then returned her to four hour shifts from August 1, 2006 through November 3, 2006 except for September 25, 2006 through October 22, 2006, during which she kept Petitioner off work. (Resp2. Ex. 4, Pet. Ex. 8)

Petitioner last worked for Respondent on November 3, 2006. Dr. Vidovic then took Petitioner off work from November 6, 2006 going forward. (Resp2. Ex. 4, Pet. Ex. 8) Thereafter, Respondent never provided any work, light duty or otherwise. On November 7, 2007, Dr. Vidovic indicated Petitioner could return to working 4 hour shifts until further notice. (Pet. Ex. 8) Respondent did not accommodate the restrictions and terminated Petitioner's employment effective November 7, 2007. (Pet. Ex. 28)

Following the termination of her employment, Petitioner, who was never released from care or deemed at MMI, lost her health insurance and did not obtain further medical care until her new insurance took effect. (Pet. Ex. 20) Dr. Neckrysh noted Petitioner "was not able to work anymore" from the time of his first visit with Petitioner on October 4, 2010. (Pet Ex. 21). Further, Petitioner testified that Dr. Neckrysh directed her not to work until November 26, 2013 when he issued permanent restrictions. Respondent did not offer Petitioner accommodating work thereafter as her employment with Respondent was terminated previously.

Dr. Goldberg, Respondent's IME, opined that from November 3, 2008, the date he first evaluated Petitioner, that Petitioner could work with restrictions of lifting no more than 20 pounds. (Pet. Ex. 19) He maintained that opinion at his second evaluation of Petitioner on June 24, 2011. (Pet. Ex. 19) Lastly, at his last examination on May 19 2014, he indicated Petitioner could work lifting up to 10 pounds and "[s]he will be at MMI after an FCE to her lumbar spine." (Pet. Ex. 19) The subsequent FCE took place on June 23, 2014. (See P. Ex. 23)

Given that Petitioner's condition of ill-being involving her lumbar spine had not stabilized at the time of the termination of her employment with Respondent in 2007 and she resumed care promptly when she obtained health insurance, and given that the Arbitrator is persuaded by Dr. Goldberg's opinions in this matter, the Arbitrator finds that Petitioner reached MMI on June 23, 2014. As such, the Arbitrator finds Petitioner was temporarily totally disabled from November 6, 2006 through June 23, 2014. Petitioner was under medical care and work restrictions during this period but Respondent did not provide accommodating light duty work during said period.

Regarding maintenance, the Arbitrator awards no benefits for maintenance finding that Petitioner did not partake in any vocational rehabilitation program. The Arbitrator notes that Respondent never authorized such a program, and her contacting the potential employers listed in the labor market survey does not constitute engaging in a self-directed job search.

Based on the above, the Arbitrator finds Petitioner was temporarily totally disabled and temporarily partially disabled for the following periods:

TTD periods:

5/29/2003 through 7/20/2003, totaling 7 3/7ths weeks
 10/7/2003 through 11/2/2003, totaling 3 5/7ths weeks
 12/19/2003 through 1/9/2005, totaling 55 2/7ths weeks
 8/23/2005 through 9/22/2005, totaling 4 2/7ths weeks
 2/21/2006 through 5/14/2006, totaling 11 5/7ths weeks
 7/17/2006 through 7/31/2006, totaling 2 weeks
 9/25/2006 through 10/22/2006, totaling 3 6/7ths weeks
 11/6/2006 through 6/23/2014, totaling 398 weeks

TOTAL TTD: 492-2/7ths weeks at \$310.60 per week

TPD periods:

11/3/2003 through 12/6/2003, totaling 4 5/7ths weeks, 4 hours per day
 2/8/2005 through 5/15/2005, totaling 13 5/7ths weeks, 4 hours per day
 8/8/2005 through 8/22/2005, totaling 2 weeks, 4 hours per day
 9/23/2005 through 2/20/2006, totaling 21 3/7ths weeks, 4 hours per day

5/15/2006 through 7/16/2006, totaling 8 6/7ths weeks, 4 hours per day
8/1/2006 through 11/3/2006, totaling 13 3/7ths weeks, 4 hours per day

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TOTAL TPD: 64-1/7ths weeks at \$155.30 per week (representing 2/3 of the difference between the amount Petitioner could earn in the full performance of her work (AWW) and the gross amount she is able to earn in modified work (50% of the AWW (4 hours shifts)), = \$465.90 - \$232.95 = \$232.95 x 2/3 = \$155.30).

In support of the Arbitrator's decision relating to (L) WHAT IS THE NATURE AND EXTENT OF THE INJURY, the Arbitrator finds the following:

At arbitration, Petitioner testified that presently, she continues to suffer from constant low back pain which radiates into her left leg and into her left foot. Her back pain wakes her about every two hours during the night. She has difficulty dressing herself, bathing herself and sitting on the toilet. She needs assistance with laundry and shopping as she is unable to stand for prolonged periods or lift anything heavy. She can stand for only about 20 minutes, and she continues to take Vicodin and ibuprofen daily.

Dr. Neckrysh, Petitioner's surgeon, indicated that Petitioner's permanent restrictions were no lifting more than 10 pounds. (Pet. Ex. 21) Similarly, Respondent's Section 12 examining doctor, Dr. Goldberg agreed with Dr. Neckrysh opining that Petitioner has a 10 pound lifting restriction and that restriction is due to the lumbar spine injury. (Pet. Ex. 19)

The June 23, 2014 valid FCE showed Petitioner capable of work only at the sedentary to light level lifting from desk to chair level occasionally up to 21 pounds; lifting above shoulder level at 14.8 pounds occasionally and bilateral lifting from chair to floor at 14.8 pounds occasionally. Further, the evaluator noted Petitioner had difficulty with prolonged standing, bending, stooping, kneeling, crawling, crouching and squatting. (Pet. Ex. 23)

Most recently, Petitioner returned to Dr. Neckrysh with continued back pain. On April 12, 2016, he noted Petitioner was now experiencing the early stages of disk degeneration at L3-L4, the level immediately above the fusion. (Pet. Ex. 21)

The Arbitrator notes that Petitioner's picker/packer job with Respondent required her to lift up to 75 pounds and required her to stand and move quickly for eight or more hours per day. (Pet. Ex. 4)

Based on Petitioner's credible testimony regarding her current complaints, the consistent medical opinions and the valid FCE, the Arbitrator finds that as a result of her May 28, 2003 work accident, Petitioner is unable to return to her occupation as a warehouse worker for Respondent.

After the 2007 termination of Petitioner's employment, Respondent never offered Petitioner accommodating light work.

Certified Vocational Rehabilitation Counselor Edward Rascati performed a vocational assessment of Petitioner and found that given Petitioner's significant vocational barriers including limited transferable skills, her limited education (with no education in the United States), her limited ability to speak, understand, read and write English, her age and her limited computer skills, that no stable labor market exists for Petitioner and job placement services would likely be prolonged with a minimal change at reemployment. (Pet. Ex. 2)

Respondent's vocational counselor, Sharon Babat, opined that Petitioner is currently employable in various job categories of clerk jobs, i.e., motel clerk, reservation clerk, billing clerk and car rental clerk. CRC Babat never provided Petitioner any vocational rehabilitation services. Specifically, she never provided

Petitioner assistance drafting a resume, job leads, job placement services or any instruction on how to go about job searching.

Petitioner testified that with the assistance of her daughter, she contacted all the employers listed in the labor market survey, documented those contacts (*See* Pet. Ex. 27), and obtained no offers of employment from those contacts.

The Arbitrator is persuaded by CRC Rascati opinion regarding the lack of stable labor market for Petitioner. Further, although Petitioner knows and can speak some English, the Arbitrator observed that her language barrier is significant. Lastly, given her lack of computer skills, her lack of education in the United States, her age (54), lack of transferable skills, it is unlikely that even with extensive job placement services Petitioner would be employable.

The Arbitrator is not persuaded by CRC Babat in this matter. She classifies Petitioner as bilingual. It is clear that Petitioner's limited abilities with English would impede her with performing any job that would involve communicating in English with customers. Further, the Arbitrator notes that almost all of the categories of occupations identified by CRC Babat indicate Petitioner is able and qualified to perform (motel clerk, customer service clerk, billing clerk, car rental clerk, etc.), all require such English communication with customers. Therefore, the Arbitrator finds that these job categories of jobs propounded by CRC Babat that involve "clerk"-type jobs would not be feasible for this Petitioner.

The Arbitrator notes that Petitioner's counsel demanded Respondent provide vocational rehabilitation services. (Pet. Ex. 26) Respondent offered no such services without explanation. Respondent did not provide Petitioner with the vocational rehabilitation services she demanded. Having done so would have served to remove any doubt as to Petitioner's present employability.

Based on all the above, including but not limited CRC Rascati's persuasive opinion that no stable labor market exists for Petitioner, the Arbitrator finds that Petitioner has met her burden and proved that as a result of her May 28, 2003 work accident, she is permanently totally disabled from work on an odd-lot basis from June 23, 2014, the MMI date, continuing for life. Respondent is ordered to pay Petitioner benefits for said disability at a weekly rate of \$376.66, representing the applicable minimum total permanent disability rate.

In support of the Arbitrator's decision relating to (M) SHOULD PENALTIES OR FEES BE IMPOSED UPON RESPONDENT, the Arbitrator finds the following:

The Arbitrator notes that this matter involved multiple claimed accidents, a complicated history of medical treatment, and contrary medical opinions specifically Dr. Slack, Dr. Trister and Dr. Laza. The Arbitrator declines to award penalties and attorney's fees.

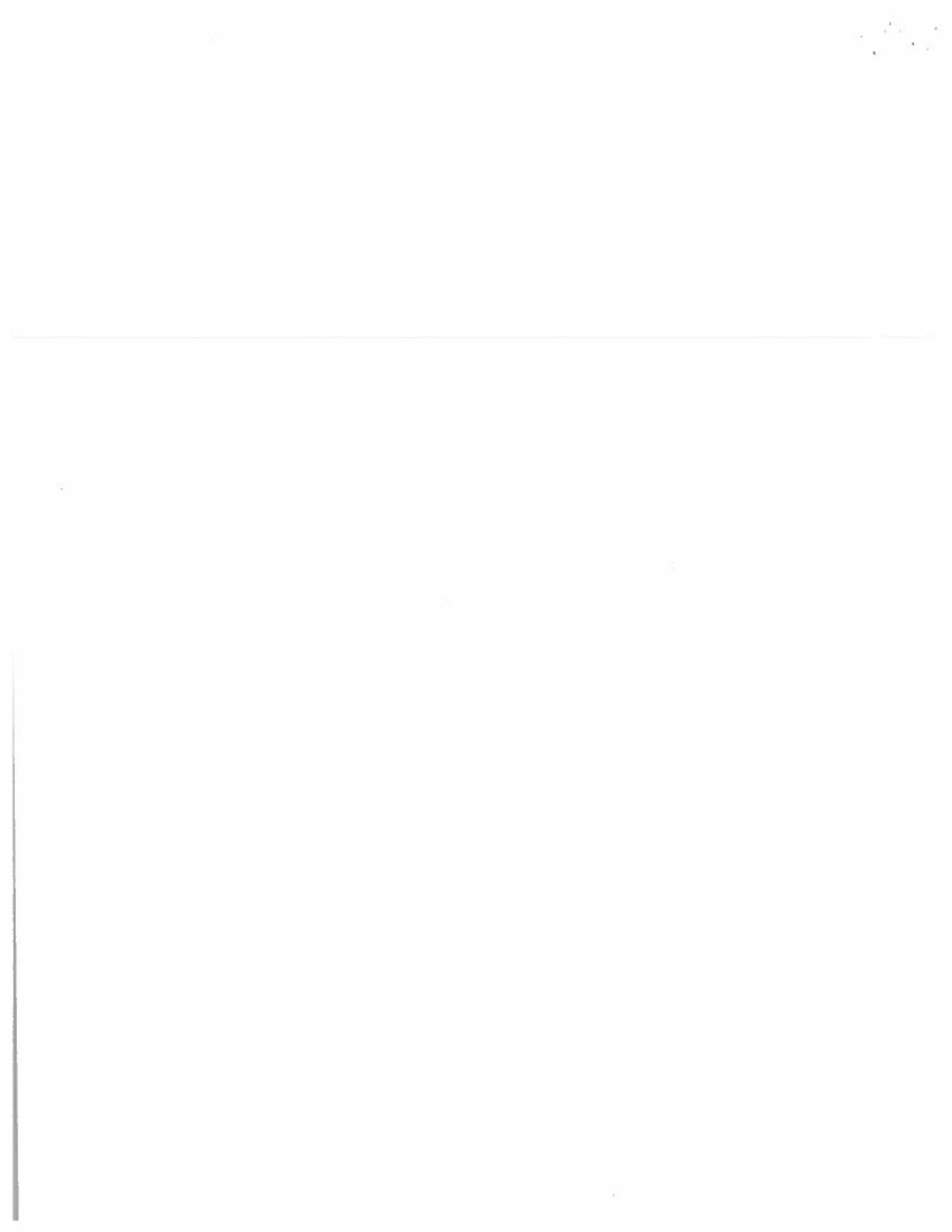
In support of the Arbitrator's decision relating to (O) IS PETITIONER ENTITLED TO VOCATIONAL REHABILITATION, the Arbitrator finds the following:

Given the Arbitrator's findings as to the nature and extent of the injury finding that no stable labor market exists for Petitioner, the Arbitrator makes no award for vocational rehabilitation.

In support of the Arbitrator's decision relating to (O) DID PETITIONER VIOLATE THE TWO-DOCTOR RULE, the Arbitrator finds the following:

Petitioner chose to treat initially with Dr. Vidovic (Ravenswood Medical Group). Dr. Vidovic and her medical group provided referrals for Petitioner's care with Dr. Abraham, Dr. Rafai/Pain Management Center, Dr. Gleason, Dr. Lazar, Dr. Schuette and Dr. Simikin. Once Petitioner obtained her health insurance with Union Health Service, she chose to treat with Dr. Jovanovich who thereafter referred her to Dr. Abraham, Dr. Slavin, Dr. Neckrysh, Drs. Patel and Bartis. Dr. Slack, Dr. Nagle, Dr. Treister and Dr. Goldberg were Section 12 examining physicians.

Based on the above, the Arbitrator finds that none of Petitioner's care to her lumbar spine violated the two-doctor rule as all care was administered, directed or ordered by the two physicians she chose, namely Dr. Vidovic and Dr. Jovanovich, and was in their chain of referrals resulting therefrom.



4. Babicz will file a reply and include any supporting evidence in the listed cases fourteen (14) days later.
5. Both attorneys will deliver a courtesy copy of their brief including any attached exhibits to Commissioner Thomas J. Tyrrell.

IT IS THEREFORE ORDERED BY THE COMMISSION that Ursula B. Babicz's Motion for Recusal of Commissioner Thomas J. Tyrrell is hereby denied.

IT IS FURTHER ORDERED that this matter is set for hearing on **January 10, 2019 at 11:00 a.m.** in Chicago, IL. The parties will comply with the briefing schedule herein.

IT IS FURTHER ORDERED that both Ursula B. Babicz and William B. Meyers attend the hearing.

DATED: **NOV 16 2018**

A handwritten signature in black ink that reads "Thomas J. Tyrrell". The signature is written in a cursive style with a horizontal line underneath it.

Thomas J. Tyrrell

r-11/15/2018

TJT/jds

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